Common Misperceptions About Planned Giving Programs

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Why Start a Planned Giving Program?

Source: *Giving USA, The Annual Report on Philanthropy (2023)*

Why Start a Planned Giving Program?

Great Wealth Transfer

Opportunity to Help Donors While Supporting Your Mission

Planned Giving: What it Is and Types

A charitable gift made in the donor's lifetime or at death as part of a donor's overall financial and/or estate plan

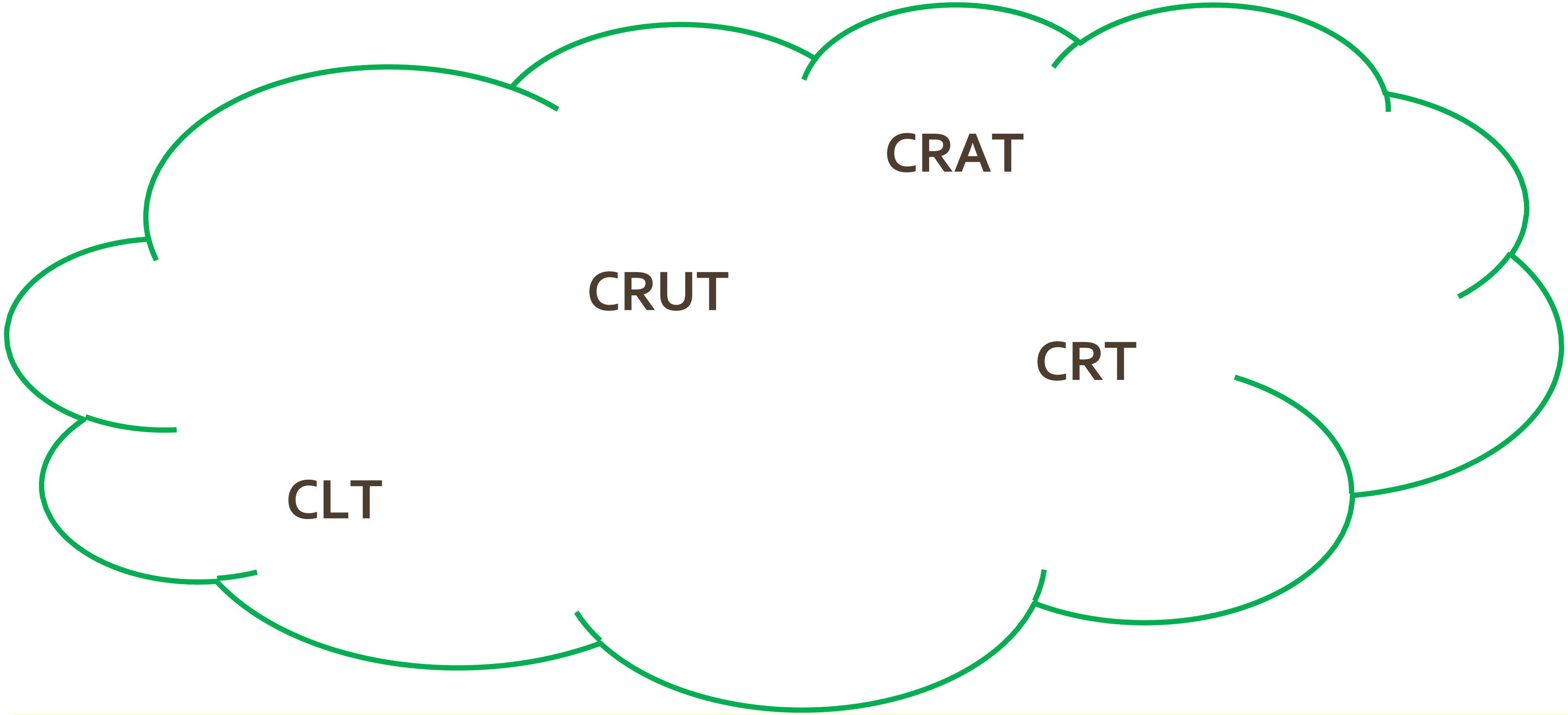
Deferred gifts

Gifts that Pay Income

Gifts that Protect Donor Assets

Misconception #1

You need to be an attorney or planned giving expert to start and maintain a planned giving program.



What's Accurate – What you DO Need:

Prospects

Trusted advisors

Compelling Case for Support

Misconception #2

Only organizations with mega donors can start a planned giving program

What's Accurate – What you DO Need:

Planned Giving Prospects:

- Frequent past donations
- Long-time donors
- Donors making sizeable donations
- Your "inner circle" of donors
- Your most reliable donors
- Volunteers

Prospects

Pull your list of prospects that fit these criteria

Start small

Trusted Advisors

Estate planning counsel

Financial advisors

Case for Support

What is it?

What makes it compelling?

Misconception #3

I need a large fundraising team to have a planned giving program.

What’s Accurate – Planned Giving Can Be Scaled

But first: Is your Charity in order?

- 501(c)(3) Exemption
- Registered to Solicit
- Form 990’s
- Guidestar
- Audited

Organizational readiness assessment

Gift acceptance policies

Gift Acceptance Policies

Good gift acceptance policies are important with many planned giving ***Vehicles***, and especially so with life estate gifts.

Critical Elements of Gift Acceptance Policies Include:

- The mission statement of the charity;
- The purpose of the gift acceptance policy;
- The organization's policy with respect to gift restrictions;
- The types of gifts, forms of gifts and sizes of certain gifts that the charity will accept;
- Reporting requirements;
- The charity's adherence to ethical standards;
- The gift acceptance committee;
- The recommendation for donor to use independent advisors (legal, accounting, and financial);
- Circumstances in which the charitable organization will engage its own legal counsel; and
- Review of the gift acceptance policy.

What’s Accurate – Planned Giving Can Be Scaled

Processes and collateral materials

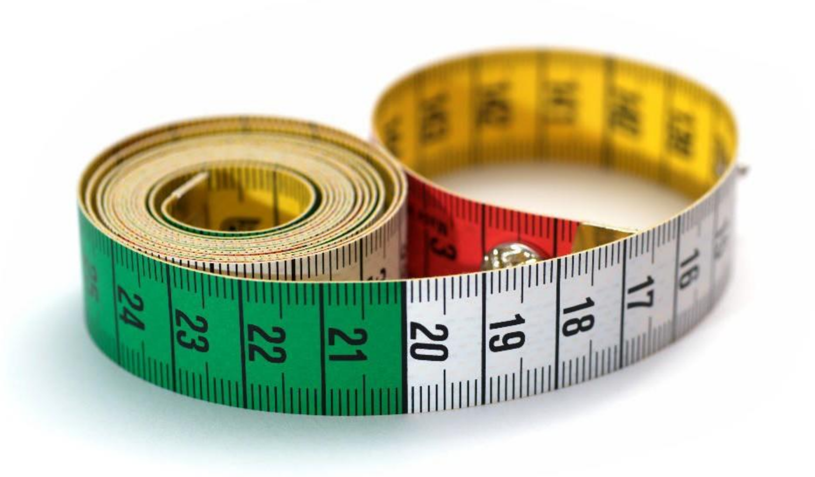
Leverage existing opportunities

Develop a scalable plan

A Planned Program that Fits You

Start with Bequests

- Very easy!
- By will / effective at death
- No out of pocket required by client
- Reduce taxable estate



Bequests

- Will language is important: "I give and bequeath ______(description) to _______, (you, Charity, at your proper name, address and EIN)", or, "all [or a percent of the value of] the rest, residue and remainder of my estate", or, "If X predeceases me, I give such property to [your Charity]."

- Inform donors, in simple ways, how to do this: "Have you considered making a gift to ______(us) in your will?"

Beneficiary Designations

- Very Logical: pass outside will/probate
- Life Insurance, Pensions, IRAs, Bank Accounts and other Contracts
- Existing Life Insurance Policies where the donor no longer needs the coverage
- New Life Insurance Policies where the Charity is the beneficiary, or where the Donor makes gifts and the charity pays premiums
- Pension and tax rules can make these more difficult than they seem

Beneficiary Designation Example

- High income donor with history, and a goal, of giving to your charity
- Donor has virtually no cash to make a current gift
- Donor also has a goal of saving for his children's education
- Donor has yet another goal for a comfortable retirement

Is this Donor going in too many directions at once? *Not Necessarily!*

Here is how the Donor can be in the driver's seat on all of his goals at once:

Donor designates percentage of retirement funds or life insurance policy to Charity; lowers tax during retirement; gives later, not now, and so has more current cash to pay for children's educational needs with out-of-pocket funds.

Let’s talk scale…

“It sort of makes you stop and think, doesn’t it.”

Donor Advised Funds (DAFs)

- Donors place funds into an investment fund with a sponsoring organization, then recommend grants to a qualified charity

- Donor gets immediate tax benefit

Tap those DAFs

- Know your donors
- Add DAF language to your website as a giving option
- Partner with local sponsoring organizations – community foundations

Charitable Gift Annuities

- A contractual agreement in which the donor makes a gift and the Charity promises to pay one or two annuitants payments for life
- A CGA can be set up with relatively small amounts, ($5,000 - $50,000), depending on the Charity's policy
- Annual payment depends on ages and rates
- Can use cash, securities or tangible personal property to set up the CGA
- Charity should set a minimum gift level

Charitable Gift Annuities (continued)

- Charity can calculate risk/benefit of CGA program
- Charity should use a rate no higher than recommendations from American Council on Gift Annuities ("ACGA")
- Charity should consider an outside CGA manager
- Secure Act 2.0 allows limited funding from an IRA rollover ("QCD")

Advantages of Charitable Gift Annuities

- Donor gets immediate charitable deduction
- Donor can defer capital gains
- Donor can experience a partial tax-free recovery and income for life. Donor is entitled to an income tax deduction equal to the difference between the value of the contribution and the present value of the annuity
- CGA can be deferred with possibly better tax results
- Interest rates are better than many other investments, even now
- CGA can be a retirement substitute for high earners
- Gift passes outside of Donor's estate
- The gift is irrevocable
- Charity gains with volume of CGA's – risk can be calculated

Life Estates

- Title transfers to charity
- Donor keeps usage for life (e.g., house, farm, etc.)
- Donor maintains property and pays taxes
- Donor receives immediate charitable deduction
- Charity should have good gift acceptance policies, ensuring that such gifts are of value – (If you don't want the gift, politely decline!) Gifts of real estate can be complex.
- Special care is required for valuation- an appraisal is needed

(Life Estates may be a good option for those 70 and older who want a large income tax savings now, who own the asset outright, but who want to live in or retain the asset for life. Tax benefits include a charitable deduction and avoidance of capital gains taxes.)

Life Estate Example

Donors: Mr. and Mrs. Fan, and their children, are huge fans of Vintage auto racing and residents of Squirrel Hill, PA. Donors want to move to Florida, are of a charitable mindset but also want to provide for their adult children. They also want to return to the 'Burgh for the Vintage Grand Prix each year; Donors want their kids to get their $1.5M estate.

Formula "One" Roadmap to Success: Donors buy condo in Florida with no state income tax; donate life estate in Squirrel Hill House to Charity; entire family uses house, especially during the week of the Pittsburgh Vintage Grand Prix. Donor pays house expense during lifetime; Charity gets remainder of house at death of Donors; kids get the rest of the estate.

Destination Reached: Donors get a place to stay; Donors get tax deduction; kids get $1.5M estate; Charity gets the house, eventually, and can sell, realizing income. (Or, Charity can use the house for visiting dignitaries, and future Donors to Charity Racing).

Charitable Trusts

Charitable Remainder Trusts

Charitable Lead Trusts

Charitable Remainder Trusts (CRT)

- Donor gives the "Tree" but not the "Fruit"
- Donor gets an immediate charitable deduction
- Donor can avoid or defer long term capital gains
- CRT can be intervivos (transferring assets during donor's life) or testamentary (established by will or trust provision to take effect at death of donor)
- A CRT can be complicated
- Interest rates have somewhat improved for use of CRTs. CRTs are a good option to accomplish tax saving.

(This option may be attractive to a Donor older than 50, with moderate to high net worth, who is interested in income and tax benefits, who holds appreciated securities or other property and who wants to remove that property out of his or her estate.)

Charitable Remainder Trusts: 2 Types "CRAT & CRUT"

- With a CRAT, Donor gets a fixed annuity for life or a period of years (not more than 20)
- Additions to the gift cannot be made
- A CRUT is similar to a CRAT, but payout varies
- Select percentage payout – Fixed percentage of value
- More flexible than CRAT
- Can make additions
- Possible retirement ***Vehicle*** – No 401 (k) or IRA limits
- Secure Act 2.0 allows limited funding from an IRA rollover ("QCD")

Charitable Lead Trust

- This ***Vehicle*** has *many* possibilities
- Charity receives income interest; the payment of the income interest leads or precedes the payment of the remainder interest to donor or family
- Donor's remaindermen get principal when trust expires. (Donor gives away "fruit" to Charity but keeps the "tree" bearing the fruit)
- Relatively low AFRs make CLTs an attractive alternative for Donors
- Annuity vs. Unitrust
- Irrevocable
- Some CLTs (e.g., Grantor Lead Trust) result in immediate charitable deduction
- Some CLTs can be structured to have increasing payouts

(Prospects for use of a Charitable lead trust include those with high net worth, who want to provide an inheritance to children and also make gifts to Charity. Also, anyone who wants to make current charitable gifts but retain the principal for a future event, such as retirement needs, medical and nursing home expenses.)

Impact of the Applicable Federal Rate (AFR)

In creating a CLT, the present value of the total gift to Charity must be valued over the life of the CLT. The IRS determines the present value by analyzing:

- the amount that will be paid to the Charity as the “lead” interest;
- the time period for which the trust exists (at least 4-5 years would be good for the Charity);
- and the expected return on investments for the trust assets. The IRS uses the Applicable Federal Rate (AFR) as the expected investment rate. This is based on U.S. Treasury Rates, which have been low in recent years.
- The current AFR is 4.4% in May 2023. Rates are rising, but low interest rates result in higher gift tax deductions.

Charitable Lead Trust Example

Qualified Nonreversionary Nongrantor Charitable Lead Trust

Donor: Mrs. Bigheart wants to support her alma mater, The Best University. She also wishes to provide for her children and wishes to transfer as many assets to them as she can; as tax-efficiently as possible.

Roadmap to Success: Donor will transfer a $2,000,000 building to a charitable lead annuity trust. The trust will pay a $100,000 annuity amount to Best University for a period of 16 years. Then, the trust assets will be distributed to Donor's children.

Destination Reached: Donor will receive a gift tax deduction for her charitable gift of nearly $1,200,380. The net taxable gift of $799,620 to her children can be offset by Mrs. Bigheart's unified gift and estate tax credit. The children will receive the property, including any appreciation that occurs over the trust period, free of gift and estate taxes.

Pooled Income Fund

- A pooled income fund is a trust maintained by a Charity into which various Donors contribute and which pays an income to those Donors; sometimes for life.
- A pooled income fund can be built around the shared interest of several Donors.
- Donors retain an income interest. The non-charitable beneficiary, which could be a child, spouse or even the Donor, gets a pro rata share of the income earned by the trust for life.
- Donor gets a current income tax deduction for the gift, based on the age(s) of the beneficiary(s) and on the fund's rate of return.
- At the death of the last non-charitable beneficiary linked to any particular Donor, that prorated share of the investment pool is withdrawn and given to the Charity.

Pooled Income Fund Advantages & Disadvantages

- **Advantages:**
- Allows a Donor to convert assets into future income
- Immediate tax deduction
- Donors may be able to "cash out" if other ***Vehicles*** look more attractive
- May be attractive in building a base of Donors who are too young to take full advantage of a Charitable Gift Annuity, or another ***Vehicle*** that returns income
- Younger Donors may like the ability to take a charitable deduction ***now*,** and have a stream of income over a long period of time, where the **rate of return is likely to continue to increase**
- Pooled feature allows administrative expenses to be shared among several Donors

Disadvantages:

- Tax reporting is complicated
- Return may be too low for Donors who are age-eligible for better rates from other donative ***Vehicles****

**Pity the Poor Pooled Income Fund. PG Calc. www.pgcalc.com*

Example: Pooled Income Fund

- A couple, aged 65, having three adult children, transfers a $2 Million piece of real estate to a Pooled Income Fund within a Community Foundation.
- The couple receives income for life and their 3 children also will receive income for their lives.
- The couple takes a charitable income tax deduction for $1.2 Million.
- The Community Foundation can sell the real estate and pay no capital gains tax.
- The couple uses the tax savings to buy a large insurance policy, naming the children as beneficiaries. The children's inheritance has exponentially increased.
- This option may work well with a Donor who has a large liquidity event or who wishes to sell appreciate assets.*

*Randy Fox. Planned Giving Design Center at CMU. "The Best Kept Secret in Planning and Why it is Important to You." http://cmu.pgdc.3.23.17 (originally published in Planned Giving Design Center on 3/21/17.)

IRA-Charitable Rollover – Old Law

- Donor must be at least age 70 ½
- Up to $100,000 per year (married couples filing joint, $100,000 each)
- Direct to a Public Charity
- Not to donor-advised funds, private foundations or supporting organizations
- Community foundations as public charities are eligible including their designated funds, field of interest funds and scholarship funds
- Charity must acknowledge (substantiate) just as any other donation
- Technically known as “Qualified Charitable Distribution” or “QCD”
- Can use Required Minimum Distributions
- Great for non-itemizers
- Great for those itemizers with deduction limits

What changed? SECURE Act 2.0 Surprise

- Passed: December 29, 2022
- Effective: Generally January 1, 2023
- RMD age changed from 72 to 73 in 2023.
- RMD age changed to 75 in 2033.
- Does not affect QCD eligibility at age 70 ½.
- $100,000 QCD is indexed for inflation (starting in 2024).

Effect on QCD's? You Betcha!

- Legacy IRA!
- One-time $50,000 maximum QCD now allowed to a charitable remainder trust (CRT) or other split interest gift such as a charitable gift annuity (CGA).
- Can benefit the donor and spouse.

Legacy IRA Limits

- Can only be made to a CRT or CGA funded with IRA assets. Only new CRTs/CGAs will qualify.
- All payments from a Legacy IRA gift must be fully taxable. Big difference from current law taxation of CGA, but not much different than CRTs.

Example

Jack is 78 and Jill is 77.

Jack has $100,000 IRA and a RMD of $10,000.

Jack can do a QCD to CFA for $10,000.

In 2023, he can now do same $10,000 plus another $40,000 to a CGA.

A joint annuity would pay 6.1%, and they would receive a $3,050 per year annuity for joint 2 lives

Annuity is fully taxed.

No deduction but they escape tax on $50,000 of IRA moneys (tax savings is $14,000 at 28%).

Are we there yet?

- Planned Gifts, especially Bequests, CGA's, CRTs, CLTs, Pooled Income Funds and Life Estates are good additions to fundraising efforts during the current economy.
- Your charity can use planned giving ***Vehicles*** to help drive your Donors and your Charity to your intended destinations.

Legislative Update: Hot Topics

- Inflation Reduction Act ("Inflation Act") became law on August 16, 2022.
- Tax increases in Inflation Act aimed at large corporations and publicly traded companies.
- Additional $80 billion provided to IRS over 10 years for enforcement activities.
- IRA charitable rollovers expanded to allow $50,000 QCDs to charitable gift annuities and charitable remainder trusts (Secure Act 2.0). QCDs indexed for inflation starting in 2024.
- Secure Act 2.0 also raised required minimum distribution age from 72 to 73 in 2023, and to 75 in 2033.

Income Tax Law Update

- The current top rate on individuals remains 37%.
- A cap of $10,000 remains on state and local tax deductions ("SALT cap").
- The current top capital gains rate remains 20% (additional 3.8% net investment income tax still applies to high earners).
- Federal estate tax exemption in 2023 is $12,920,000 (doubled for married couples).
- The annual gift tax exclusion is $17,000 in 2023.
- Tax changes in Tax Cuts and Jobs Act still sunset at end of 2025.

Let’s Go Do it!

- Identify 3 things you can do next week to get started

- What are YOUR 3 things?

Questions?

For more information on your specific issue, feel free to contact:

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Thank You!